

## PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT  
(PCT Article 36 and Rule 70)

REC'D 13 APR 2004



WIPO PCT

Applicant's or agent's file reference BP105721	<b>FOR FURTHER ACTION</b> See Notification of Transmittal of International Preliminary Examination Report (Form PCT/PEA/416)	
International application No. PCT/FI 03/00022	International filing date (day/month/year) 14.01.2003	Priority date (day/month/year) 15.01.2002
International Patent Classification (IPC) or both national classification and IPC D21H23/50		
Applicant METSO PAPER, INC.		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 5 sheets, including this cover sheet.
- ☐ This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).
- These annexes consist of a total of sheets.

## 3. This report contains indications relating to the following items:

- I ☒ Basis of the opinion
- II ☐ Priority
- III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☐ Certain defects in the international application
- VIII ☐ Certain observations on the international application

Date of submission of the demand  07.07.2003	Date of completion of this report  08.04.2004
Name and mailing address of the international preliminary examining authority:   European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465	Authorized Officer  Nestby, K  Telephone No. +49 89 2399-8625 

**INTERNATIONAL PRELIMINARY  
EXAMINATION REPORT**

International application No. **PCT/FI 03/00022**

**I. Basis of the report**

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17))*):

**Description, Pages**

1-5 as originally filed

**Claims, Numbers**

1-6 as originally filed

**Drawings, Sheets**

1/2-2/2 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item:

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).  
☐ the language of publication of the international application (under Rule 48.3(b)).  
☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.  
☐ filed together with the international application in computer readable form.  
☐ furnished subsequently to this Authority in written form.  
☐ furnished subsequently to this Authority in computer readable form.  
☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.  
☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:  
☐ the claims, Nos.:  
☐ the drawings, sheets:

**INTERNATIONAL PRELIMINARY  
EXAMINATION REPORT**

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5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

*(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)*

6. Additional observations, if necessary:

**V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

**1. Statement**

Novelty (N)	Yes: Claims	2-5
	No: Claims	1,6
Inventive step (IS)	Yes: Claims	2-4
	No: Claims	1,5,6
Industrial applicability (IA)	Yes: Claims	1-6
	No: Claims	

**2. Citations and explanations**

**see separate sheet**

Re Item V

Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. The preamble of claims 1, 6 is disclosed in each of the documents

D1 : US-A-6 063 450

D2 : WO-A-97/13036 (counterpart of FI B 108061, cited in the description of the present application. The number in line 35 on page 1 is hence wrong).

D3 : WO-A-01/02098

2. The characterizing part of claim 1 (as well as of claim 5) are unclear (Art. 6 PCT) for the following reasons:

The feature "the nozzles have been classified by a variable acting on the flow" does not permit to identify which constructional feature of the nozzles has been the subject of classification.

The feature "so that the variable deviation within an array is smaller than a pre-set limit value" is in any case indefinite since the "pre-set limit value" is not defined. Besides, claims 1, 5 do not meet the requirements of Article 6 PCT in that the matter for which protection is sought is not clearly defined. The claims attempt to define the subject-matter in terms of the result to be achieved which merely amounts to a statement of the underlying problem. The technical features necessary for achieving this result should be added.

The same objection applies to claim 6 as far as the reference back to claims 1, 5 is concerned.

3. Documents D1, D2, D3 pertain to spraying (atomizing) apparatus and methods for coating web materials, comprising a plurality of nozzles which can be **adjusted in order to regulate the flow**, see D1, column 5 and D2, page 13, second paragraph. Therefore, in view of the foregoing paragraph 2, the subject matter of claims 1 and 6 is not novel (Article 33(2) PCT).
4. It is clear from the description on page 2 that the "dimensions of the nozzle openings" is essential to the definition of the invention:

**INTERNATIONAL PRELIMINARY  
EXAMINATION REPORT - SEPARATE SHEET**

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International application No. PCT/FI03/00022

Since independent claims 1, 5 do not contain this feature they do not meet the requirement following from Article 6 PCT taken in combination with Rule 6.3(b) PCT that any independent claim must contain all the technical features essential to the definition of the invention.

- 4.1 The Applicant could cope with the foregoing objections by incorporating the features of claims 2 and 4 into claims 1 and 5.